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matter sufficiently well arranged to be of immediate service. It does not pretend, however, to go far into the substantive law involved. Indeed, there is practically no discussion of the theory of the regulation of railroad rates. As a special book for the practitioner, it has the peculiar value of being the work of one versed in what he is describing. B. W.

A TREATISE ON GUARANTY INSURANCE AND COMPENSATED SURETYSHIP.

By Thomas Gold Frost. Second Edition. Revised and Enlarged. Boston: Little, Brown and Company. 1909. pp. liv, 770. 8vo.

This work follows in the main the outline of the first edition which was discussed in 15 *HARV. L. REV.* 759. About two hundred and fifty pages have been added and the later decisions are discussed. The subject of Official Bonds is treated under a separate head, and the chapter on Contract Insurance is greatly amplified. The subject of subrogation also receives more extended treatment, and included in the same chapter with it is a short discussion of the rights of contribution and exoneration.

The faults commented upon in the review of the first edition are apparent in this revision. The author treats the contract of the compensated surety as one of insurance and not of suretyship. Though it is true that some of the cases do refer to the contract as one of insurance, which, in a sense, it is, yet there seems to be no more justification than there was at the time the work first appeared, so far as the later decisions show, for discussing the subject with such little reference to the general principles of suretyship. The text abounds with extended statements of the facts of certain cases and long excerpts, sometimes of two and three pages, from opinions with but little comment by the author in most instances. There is also frequent repetition, an instance of which is where section 28 of over two pages is repeated practically verbatim in section 198. The author's narrow treatment of his general subject seems hardly to warrant so much space as he gives to it or such extensive discussions of the facts of individual cases. S. ST. F. T.

DIE GESCHICHTE DES ENGLISCHEN PFANDRECHTS. By Dr. jur. Harold Dexter Hazeltine, Reader in English Law an der Universität Cambridge. Breslau: Verlag von M. & H. Marcus. 1907. pp. xxviii, 305. Appendix.

This treatise on the history of English mortgage law was written under the direction of Dr. Otto Gierke, Professor of Law at the University of Berlin, which circumstance is alone sufficient to stamp the work of Mr. Hazeltine as profound and illuminating. The need of an elaborate investigation into the development of English mortgage law has many times been felt by students of jurisprudence; its sources and growth have never before been adequately studied. In this field, therefore, Mr. Hazeltine is a pioneer. His articles in the *HARVARD LAW REVIEW* (vol. XVII. pp. 549-557 and vol. XVIII. pp. 36-50) summarize well the portion of the volume which treats of the gage of land in Mediaeval England and are, moreover, good examples of the author's fine historical method. E. D. B.

THE LAW OF REAL PROPERTY. By Raleigh Colston Minor. In two volumes. University of Virginia: Anderson Brothers. 1908. pp. vi, 1038, 1038-1835. 8vo.

The law of real property is for the most part so ancient and well settled, and its rules have been stated and restated with such lucidity and insistence by the ablest common law minds since epochs immemorially antique, that one can almost assume that an intelligent man having access to the authorities will produce a sound statement of the law. Mr. Minor's book is, in fact, a clear,

sound, and conservative restatement of the truths already elucidated by his predecessors. It is similar in size and general scope to Tiffany on Real Property, but has the advantage of being published five years later and of having had Tiffany in part as a model—a model which might in some cases have been followed more closely with advantage.

Minor's text is fuller than Tiffany's, largely owing to its greater eloquence, but the foot-notes are much more meager—only half the number of cases being cited in the entire work. Special attention is given to the Virginian law, and constant reference is made to Minor's Institutes, an obscure book written by a namesake of the author, on whose work the new treatise purports to be founded. The book is equipped with a good index, full enough to make it really useful for the practicing lawyer as distinguished from the reader of law. For lawyers residing in Virginia and for students intending to practice there, the book will doubtless be a most valuable assistance. For the residents of other states it is inferior, in the clearness of its analysis and the exhaustiveness of its citations, to Tiffany. To be sure, it is of more recent date, but the law of real property is now so well settled and subject to so few changes that the lapse of five years does not appreciably impair the value of a book published in 1903, nor justify the addition of another book to the already stupendous nightmare of legal bibliography.

E. R. JR.

THE CRIMINAL RESPONSIBILITY OF LUNATICS. By Heinrich Oppenheimer. London: Sweet and Maxwell, Limited. 1909. pp. vi, 275.

The defense of insanity—thanks to newspaper trials of homicide cases and the willingness of some lawyers and some doctors to prostitute their learning and ability to aid the guilty to escape—has come to be looked for in almost every trial for murder, where the identity of the actor is known and the plea of self-defense cannot be raised. The defenses evolved by lawyers and the theories propounded by the doctors have at times been so bizarre, and the results achieved at times have seemed to be such obvious miscarriages of justice, that the layman and even the lawyer have thought that there must be something wrong with the law or with the rules for determining the criminal responsibility of lunatics.

Dr. Oppenheimer has undertaken to consider the rules of law governing such responsibility that are applied in the different countries of the civilized world. He brings to his task excellent qualifications, being both a trained lawyer and a trained doctor. This study in comparative law is brief, being merely a thesis approved for the degree of doctor of laws; but it is clearly reasoned and it is suggestive.

Dr. Oppenheimer points out that much of the confusion that exists is due to the fact that two distinct questions are unfortunately treated as one or as necessarily bound together. The question of a man's sanity is one,—a purely medical question; the question of a man's responsibility, or amenability to conviction or punishment, is another,—a purely legal question.

The law cannot determine when a man is insane. That purely medical question ought in every case to be determined first. The law can determine what insane men shall be held responsible. Here the law can adopt many rules, lying between the Chinese rule on the one extreme by which the criminal lunatic is treated just as an ordinary wrongdoer, and the French rule on the other extreme by which the insane criminal is held irresponsible.

Unfortunately, Dr. Oppenheimer does not reach any definite conclusion. After a review of the systems of all the civilized countries of the world, he decides that there is none which offers any advantages to the so-called "knowledge test" of the English law. He believes it is "as safe and satisfactory a working rule as has yet been devised."

He does reach one conclusion with which most will agree. He believes that the field of the lunacy experts should be restricted, and that they should cease